



Annual Gateway Vehicle Inspection Program Report - Fiscal Year 2013



MISSOURI
DEPARTMENT OF
NATURAL RESOURCES



**Missouri State
Highway Patrol**

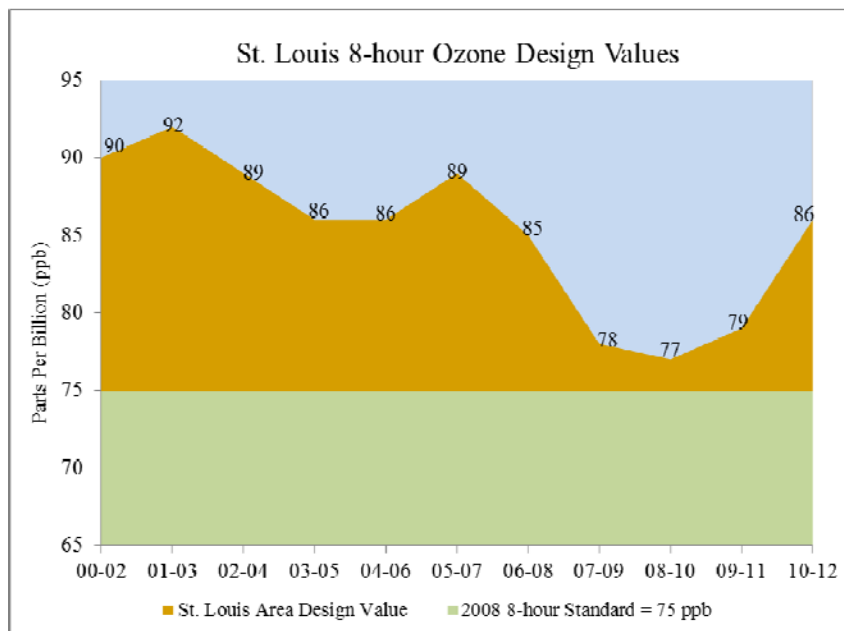
Introduction

Pursuant to RSMo. 643.337.2, the Missouri Department of Natural Resources and the Missouri State Highway Patrol are issuing a joint annual report to the General Assembly on the status of the oversight measures implemented for the decentralized Inspection/Maintenance program – the Gateway Vehicle Inspection Program (GVIP). This report summarizes GVIP compliance and incidents of fraud discovered during the 2013 Fiscal Year (July 1, 2012-June 30, 2013). This report also provides our joint recommendations for oversight improvements to the GVIP.

Background

The GVIP is a federally required air pollution control strategy in the St. Louis ozone nonattainment area comprised of Franklin, Jefferson, St. Charles, and St. Louis counties and the City of St. Louis.

Since the 1980s, the Department has overseen an Inspection/Maintenance program for vehicles located in the St. Louis area. The program originated as a decentralized program, became centralized in 2000 and then reverted to a decentralized program in 2007 with the beginning of the GVIP.



The Missouri Air Conservation Commission promulgated 10 CSR 10-5.381, “*On-Board Diagnostics Motor Vehicle Emissions Inspections*,” effective August 30, 2007. This rule established state regulations that the Department and Highway Patrol currently use to oversee and enforce the GVIP emission inspection requirements with assistance from the state’s contractor, SysTech International. The Department is the lead agency with respect to emissions inspections and the Highway Patrol is the lead agency with respect to safety inspections. The GVIP began collecting vehicle emissions and safety inspection data on October 1, 2007.

Station Licensing

As of June 30, 2013, there were 845 public and 21 private or government active licensed GVIP stations. There were also approximately 5,000 licensed inspector/mechanics. A current list of licensed GVIP stations is on our website at www.dnr.mo.gov/gatewayvip/repair/index.html.

Vehicle Inspection Data

Each licensed GVIP station performs vehicle inspections using a Missouri Decentralized Analyzer System. This system sends real-time inspection information from the inspection stations directly to the GVIP Vehicle Inspection Database. The Department, Highway Patrol, Department of Revenue (DOR) and contract license offices all have access to the database

through secure, dedicated Internet connections. During FY2013, GVIP stations conducted 742,152 initial emissions inspections and 797,741 safety inspections.

Previous testing programs identified vehicles after they were already polluting. This often resulted in costly repairs. In contrast, GVIP focuses on identifying problems in vehicles before they result in the need for major repair. While approximately 13,114 vehicles failed their initial emissions test, due to the efforts of GVIP, data indicates a final compliance rate of 97 percent for emission tested vehicles in the St. Louis area.

Emissions Waivers and Exemptions

10 CSR 10-5.381 (3) (K) enables the Department to issue waivers and exemptions from GVIP requirements. Just like inspection results, waivers and exemptions issued by the Department are available for real time verification by DOR, contract license offices and online registration via the Vehicle Inspection Database.

- *Cost-Based Waivers* – granted by the Department if a motorist spends a specified amount on emissions-related repairs after failing an initial emissions inspection and is still not able to pass the emission test. During FY2013, the Department issued 325 Cost-Based waivers.
- *Out-of-Area Waivers* – granted by the Department for vehicles that are taxed within the ozone nonattainment area but not driven in the area during the registration period. For FY2013, the Department issued 123 Out-of-Area waivers.
- *Reciprocity Waivers* – granted by the Department for vehicles that are taxed within the ozone nonattainment area but are located in another state and has passed an equivalent emission inspection in that state. For FY2013, the Department issued 5 Reciprocity waivers.
- *Mileage Based Exemptions* – granted by the Department for vehicles with documented odometer readings to meet various mileage waiver criteria. For FY2013, the Department issued 967 Mileage-Based exemptions.

Data Oversight Methods

Real Time Inspection Data/Paperless Inspection Verification

Each analyzer unit connects to the Vehicle Inspection Database using a dedicated Internet connection. Upon completion of a vehicle inspection, the system's software uploads the inspection data to the database, where it becomes immediately available to the Department, the Highway Patrol, SysTech, DOR, contract license offices and the online registration system for inspection verification. This allows license offices to quickly identify fraudulent vehicle inspection reports, deny vehicle registrations and report the issue so an immediate investigation may begin. This investigation includes determining the source of the fraudulent inspection reports, requiring legitimate inspections for the vehicles and possible criminal prosecution.

Bulletin Messaging and Documents Menu

Each analyzer unit includes a messaging system that allows the Department, the Highway Patrol and SysTech to contact GVIP stations, individually or collectively, to inform inspectors and mechanics about inspection procedures, billing reminders and software updates. Each unit is

also equipped with a documents menu, which stores and prints GVIP regulations and fact sheets, as well as comment, waiver and exemption forms. This simplifies the distribution of public information to inspection stations and to vehicle owners.

Consumer Protection Technical Service Centers

Cost-Based waivers allow a vehicle to register and operate in a failing condition for up to two years. Therefore, the Department strives to ensure repairs made to vehicles receiving a Cost-Based waiver are appropriate and beneficial. Through negotiated contracts, the Department retains the services of approximately 11 vehicle repair facilities to serve as Technical Service Centers. These Technical Service Centers employ Missouri Recognized Repair Technicians who are certified by the National Institute for Automotive Service Excellence in specific areas, specializing in diagnosing the cause of a failing emissions test. These centers serve to:

- Diagnose readiness issues with specific makes and models. This helps identify vehicles requiring special testing circumstances and allow for ease of future testing.
- Diagnose vehicles that received repairs but show no signs of improvement.
- Review vehicles and prepare receipts to ensure repairs performed were necessary for the emissions failure and performed as billed.
- Provide motorists with accurate diagnostic information on how best to repair their vehicle to pass an emissions test.

The Department is able to deny Cost-Based waiver requests if reviews show repairs were not appropriate to correct the emissions failure. Many times, the Department works with the shops that performed the initial repairs to reimburse the motorist or provide additional free repairs. The use of Technical Service Centers reduces the number of Cost-Based waivers, thereby minimizing the emissions from waived vehicles while also maximizing the number of fully repaired vehicles.

For FY2013, the Department authorized the review of 47 vehicles by one of these centers.

Equipment Oversight Methods

Laptop Audit Computers with Wireless Internet Access

Department and Highway Patrol auditors receive laptop computers containing both analyzer software and customized auditing software. These laptops allow auditors to securely access the Vehicle Inspection Database and conduct audits with or without Internet access. Department and Highway Patrol auditors are able to review inspection records for all stations and inspector/mechanics while in the field. Once an audit is complete, Department and Highway Patrol staff managers can immediately review audit results and generate summary audit reports from the inspection database. This automatic upload allows for a quicker response when identifying fraudulent inspections and procedures.

Digital Cameras

Each analyzer unit includes a detachable digital camera. The analyzer's software requires licensed inspector/mechanics to photograph the rear license plate, vehicle identification number plate and the odometer. The inspector/mechanic attaches these photographs to the vehicle inspection reports on the inspection database where it is available for review and comparison to the inspection report to ensure the vehicle reported matches the vehicle inspected. The Department and Highway Patrol are then able to identify inspector/mechanics taking improper or no photos prior to the inspection.

Fingerprint Readers

Each analyzer unit also includes a digital fingerprint reader. The software requires the licensed inspector/mechanics to scan one finger prior to beginning each inspection. This fingerprint scan must match the scan stored in the system for that individual in order to proceed with the inspection. Fingerprint readers in combination with the trigger reports described below have dramatically improved enforcement efficiency by documenting and pinpointing inspector/mechanics conducting improper inspections.

Enforcement

Station Audits

The Department and Highway Patrol conduct overt and covert audits of GVIP stations. During covert audits, the Department uses a fleet of six vehicles altered to fail in order to assess the test effectiveness and to prevent test station fraud. The Highway Patrol also has a fleet of five vehicles with varying defects to evaluate the station's safety inspections. During FY2013, Department staff conducted 1,104 overt audits and 533 covert audits of GVIP stations and Highway Patrol staff conducted 5,110 overt audits and 87 covert audits.

Trigger Reports

Once uploaded to the inspection database, the inspection data becomes available to the Department, Highway Patrol, DOR and SysTech via an Internet-based Reporting Suite. The Reporting Suite contains general informational reports along with "trigger reports" designed to identify emissions or safety inspection patterns inconsistent with state regulations. As soon as improper inspections occur, the trigger report compiles the evidence into a report used to initiate an investigation. For example, the *OBD VIN Mismatch Report* and the *Protocol Mismatch Report* reveal "clean scanning" violations. Clean scanning is the illegal act of connecting the analyzer cable to a different vehicle than the one identified on the inspection report with the intent of bypassing the required test procedure. The *OBD VIN Mismatch Report* compares the vehicle identification number entered by the inspector/mechanic with the number the vehicle reported through the system. In addition, vehicle manufacturers program every make and model with a certain protocol that the vehicle uses to communicate. The *Protocol Mismatch Report* identifies inspections where the protocol used by the on-board diagnostic is different from the known protocol for the vehicle reported. These two reports are extremely effective in identifying instances of fraudulent inspections.

Clean Scanning

Fraudulent inspection activities such as clean scanning are violations of the Clean Air Act and prosecutable by the U.S. Attorney's Office. The Department and Highway Patrol collaborate with the U.S. Environmental Protection Agency's (EPA) Criminal Investigation Division and the U.S. Attorney's Office on investigations of vehicle inspection fraud and inspection document falsification.

On November 6, 2012, the Missouri Attorney General's Office and the department officially closed the case file for all actions associated with clean scanning violations that occurred at **Clark's Tire and Auto, LLC (formerly Clark Tire Wholesale)**. On October 15, 2012, civil penalties against the three inspectors involved were ordered by default judgment. Mr. Herschel Clark was assessed a civil penalty of \$200,000, Mr. John Clark was assessed a civil penalty of \$65,000 and Mr. Jeremy Cook was assessed a civil penalty of \$95,000 for their roles in the violations. In July 2012, the Missouri Attorney General's Office, the Department and

Mr. Jeffery Clark, responsible agent for Clark's Tire and Auto, LLC, reached a \$200,000 settlement for 63 clean scan inspections conducted at the facility. The Attorney General and Department agreed to suspend \$180,000 of the penalty provided the facility have no further violations of Missouri Air Conservation Law and regulations for two years. In addition, in November 2011, a default judgment against Ms. Susan Clark resulted in a \$350,000 penalty for her role as responsible agent in 35 clean scans.

On October 11, 2012, the United States Attorney's Office Eastern District of Missouri announced that Mr. Michael Terry was sentenced to 13 months in prison for falsifying documentation regarding auto emissions tests and sales tax documentation during his employment at **Sure Start Battery & Tire Company** in St. Louis, Missouri. According to court documents, the legitimate business of Sure Start was general vehicle repair, including safety and auto emissions testing. In addition to falsifying other records associated with vehicle registration, Mr. Terry conducted false safety and auto emissions tests and provided false safety documentation to vehicle owners to bypass the Missouri state laws associated with vehicle safety and EPA regulations. The US Environmental Protection Agency Criminal Investigation Division, the Missouri Department of Revenue, Missouri Highway Patrol, Missouri Department of Natural Resources and Internal Revenue Service Criminal Investigation investigated the case.

Equipment Lockouts and License Suspensions/Revocations

The Department and Highway Patrol have the ability to apply an electronic "lockout," which prevents an individual inspector/mechanic or an entire GVIP station from using their analyzer unit(s). For FY2013, the Highway Patrol initiated 136 lockouts for various reasons including no or poor quality photographs and/or inspection violations. The removal of a lockout occurs upon the completion of the license suspension or the correction of the violation.

In addition to having their analyzers locked out, inspection stations conducting improper inspection activities may have their inspection licenses suspended for up to one year or revoked entirely. To date, the Highway Patrol suspended 4 inspector/mechanic licenses for clean scanning violations. During FY2013, the Highway Patrol suspended or revoked the following station licenses for clean scanning violations:

- **Meineke Car Care** (165 Long Road, Chesterfield)
- **Lou Fusz Chrysler, Jeep** (3480 Highway K, O'Fallon)
- **Dean Team of Kirkwood** (10205 Manchester, Kirkwood)
- **Auto Tire Car Care Center# 934** (3205 Hampton Ave., St. Louis)

The Department and Highway Patrol continuously investigate additional GVIP stations and inspector/mechanics for improper inspection activities.

Oversight Results

The GVIP prevents registration fraud by investigating and identifying individuals producing fraudulent inspection reports. The GVIP implemented an improved auditing system streamlining the Department and Highway Patrol oversight of vehicle emissions and safety inspections. The result of the integrated oversight methods described above is that the Department and Highway Patrol can cost-effectively audit, detect, enforce and further prevent emissions and safety inspection fraud.

Recommendations for the Future

The Department and Highway Patrol continually strive to improve our ability to detect fraud and ensure data integrity. We continue to move forward by identifying areas of possible improvement to the GVIP, including:

- Provide ability for Mileage Based Exemptions to be provided at GVIP inspection facilities through the inspection analyzer by utilizing data already in the inspection system at no charge to the motorist and no VID fee or authorization fee charged to the shop.
- Continue efforts to seek out and prevent fraudulent inspection procedures in addition to clean scanning violations. With ongoing improvements to the reporting system, and varied covert audit techniques, we continue to improve our ability to efficiently identify improper inspections.
- Continue working with DOR to improve the registration process through identifying and preventing invalid registration obtained with counterfeit inspection reports, ensuring individual licensing offices conduct proper verifications, minimizing problems or confusion with registration of vehicles that are exempted from safety and/or emissions inspections, minimizing issues associated with online registrations and providing additional information regarding exemptions. We will also continue to work with DOR to ensure automobile dealers state wide meet their statutory obligation to inform vehicle purchasers of their rights regarding emissions inspections.
- Continue efforts to coordinate with the Missouri Attorney General's Office Consumer Protection Division and DOR to bring enforcement action against used car dealers who fail to meet the requirements of the statute. RSMo. 643.315.4 requires a dealer to obtain a passing emissions test before sale or clearly state in the sales contract that the purchaser may return the vehicle to the dealer for retest and repair within ten days of sale should the vehicle fail an emissions test.

Conclusion

The oversight measures described in this report have elevated the Gateway Vehicle Inspection Program to among the best in the country. Thanks to efforts like GVIP in the St. Louis area, ozone levels have shown a continued decline in recent years. As the program matures, we will have an even greater potential for compliance and enforcement capabilities. The Department and Highway Patrol will continue working with SysTech to enhance the oversight tools needed to identify violations and improve enforcement capabilities. Both agencies will continue to ensure compliance with state statutes and rules, remove violators from the program and work for the public health and safety by overseeing an inspection program with proven value and integrity.